

## **CHAPTER TWO ADMINISTRATIVE PROCEDURES AND ENFORCEMENT**

### **Section 200.00 Administrative Procedures and Enforcement**

#### **Section 200.01 Purpose**

This chapter sets forth the procedures to be followed in obtaining certificates and other legal administrative approvals under this Resolution.

#### **Section 200.02 Zoning Certificates Required**

No land may be “changed in use” without a zoning certificate issued by the Zoning Inspector. No building or other structure shall be erected, moved, added to, demolished, altered, or established without a zoning certificate, issued by the Zoning Inspector. The Township has two types of zoning certificates and application and review procedures for each.

- A. A Zoning Certificate is required if the proposal is for a permitted use/structure. The Zoning Inspector shall proceed to conduct the application and plan review as further described in Section 201.00.
- B. A Conditional Zoning Certificate is required if the proposal is for a conditionally permitted use/structure. The Board of Zoning Appeals shall conduct the application and plan review as detailed in Section 202.00.

Zoning Certificates shall be issued only in conformity with the provisions of this Resolution unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding approval for an appeal, variance, or conditional use.

#### **Section 200.03 Submission of Application**

All applications for a Zoning Certificate or a Conditional Zoning Certificate shall be submitted to the Zoning Inspector. The Zoning Inspector will only accept and act upon an application that is complete and includes the proper application fee as established by the Township Trustees.

#### **Section 200.04 Procedures for Filing an Application**

Any application for a Zoning Certificate for any use of land or structure, construction, or alteration that is permitted under this Resolution shall be submitted in accordance with the appropriate procedures as described in this Chapter.

#### **Section 200.05 Change in Use Determination**

For the purpose of interpreting the term “change in use” for determination of whether a zoning certificate is required as specified in 200.02, it shall be identified in the following manner:

A. Residential Uses:

The residential use categories are as follows: Single-family, two-family, three-family, multi-family, rooming/boarding house. A change in use status will exist when a residential structure(s) is converted from one use category to another. Such conversion shall be made in conformance with all applicable sections of this Resolution.

B. Commercial, Industrial and other Non-residential Uses:

A “change in use” status will exist when:

1. The previous use of a structure, building, land or portion thereof has ceased and the new or converted use is not the same as that previous use; or
2. The existing use of a structure, building, land or portion thereof is proposed to be converted to a different use.
3. Such conversions shall be made in conformance with all applicable sections of this Resolution.

**Section 200.06            Submission to the Director of Transportation**

This section applies to all types of zoning certificates and zoning amendments.

As required by Ohio Revised Code, Section 5511.01, before any zoning change or subdivision plat request can be approved and before any type of Zoning Certificate can be issued for a land use or the erection, alteration, or moving of a building can be granted that affects any land within three-hundred (300) feet of the center line of a proposed new highway or highway for which changes are proposed, as described in the certification by the Director of the Ohio Department of Transportation (O.D.O.T.), or within a radius of five-hundred (500) feet from the point of intersection of that center line with any public road or highway, the Zoning Inspector shall give written notice to the Director of O.D.O.T. by certified mail.

The Township Zoning Inspector, Zoning Commission, or the Board of Zoning Appeals, shall not proceed to review such request for one hundred twenty days from the date notice is received by the Director or during any extension of time that may be agreed to between the Director and the property owner.

If the Director notifies the Township that he shall proceed to acquire the land, then the responsible zoning authority shall refuse to review the zoning request. However, if the Director notifies the Township that the acquisition is not in the public interest or upon the expiration of the one-hundred-twenty (120) day period or any extension of time agreed upon by the Director, then the local zoning authority shall proceed with the zoning request in accordance with the provisions of this Resolution.

### **Section 200.07            Inspections of Improvements**

The Zoning Inspector shall inspect the layout of all buildings in the field, to determine compliance with the resolution. This shall be done before any excavation of the foundation is completed. A follow-up inspection may be made to ensure proper location of the foundation.

The applicant shall notify the Zoning Inspector when the construction of the foundation is going to be started.

### **Section 200.08            Certificate of Zoning Compliance**

An application for a certificate of Zoning Compliance shall be made upon readiness for use.

The applicant shall notify the Zoning Inspector when the business/building is ready for use. The Zoning Inspector shall conduct a review and determine compliance with the Zoning Resolution. The Zoning Inspector shall sign the Certificate of Zoning Compliance or issue notice of refusal to sign within fourteen (14) days of notification. The Zoning Inspector shall also state in writing the item(s) of noncompliance with the Zoning Resolution. If no action is taken within the fourteen (14) day time period, the applicant can use said premises. A record shall be kept in the office of the Township Clerk.

### **Section 200.09            Expiration of the Zoning Certificate**

- A. If work described in any type of Zoning Certificate, including change of use, has not begun within one year from the date of issuance, the Zoning Certificate shall expire. Expiration dates shall be noted on Zoning Certificates. For projects requiring construction, construction shall be considered begun when excavation and piers or footers of the structure included in the application have been completed.
- B. If the work described in any type of Zoning Certificate has not been substantially completed within two (2) years of the date of issuance, the Zoning Certificate shall expire. Substantially completed requires that at a minimum the following items are completed: finished roof, windows installed, the siding or other exterior finish materials of the principal and accessory buildings/structures and final grade of site.
- C. The reviewing zoning authority (i.e. Zoning Inspector or Board of Zoning Appeals) and the applicant may agree to an extension of time based on reasonable circumstances that precluded the applicant from beginning or substantially completing construction. The circumstances and facts must be submitted to the reviewing zoning authority in writing, along with a schedule for completion of work. Unless otherwise specified in this Resolution, the reviewing zoning authority may grant an extension of time for up to six (6) months before the applicant would need to submit a new application for review. If an extension is granted, the reviewing zoning authority shall notify the affected person(s) in writing of such extension and the time frame for completion of work.
- D. Unfinished construction projects that do not comply with this section and for which no progress is being made, shall be considered to be abandoned and may be declared a nuisance.

**Section 200.10            Schedule of Fees, Charges and Expenses**

The Township Trustees shall, by Resolution, establish a schedule of fees, charges and expenses and a collection procedure for Zoning Certificates, amendments, appeals, variances, Conditional Zoning Certificates, and other matters pertaining to the administration and enforcement of the Resolution requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Clerk of the Trustees and of the Zoning Inspector, and may be altered or amended only by the Township Trustees by Resolution. Until all applicable fees, charges and expenses have been paid in full no action shall be taken on any application or appeal.

**Section 200.11            Special Costs**

When the Zoning Commission or Board of Zoning Appeals finds it necessary to cause special studies to be made, the applicant shall bear all reasonable direct and related costs. Reasonable refers to standard fees for the type of expertise and studies for the region.

## **Section 201.00          Zoning Certificates for Permitted Uses**

### **Section 201.01          Purpose**

The purpose of this section is to establish the procedures for plan review, as well as provide general site planning guidelines in order to assure that all the elements required in this Resolution are present in the plan and that the design, location and relationship to one another with the site and with the adjacent properties are appropriate to achieve the intent and goals of this Resolution. These planning guidelines (see Appendix B) are intended to benefit and assist both the developer and the community in the orderly development of Brimfield Township. This review process is not intended to dictate specific tastes and architectural styles, but is intended to make sure that significant design elements are considered within the development.

### **Section 201.02          Permitted Uses Require a Review by the Zoning Inspector**

The Zoning Inspector shall review all submitted applications of permitted uses to determine compliance with the requirements of this Resolution. The review is intended to benefit both the applicant and the community by ensuring that:

- A. All of the elements required in this Resolution are presented in the application materials,
- B. The design, location and relationship of the proposed land use and/or building and structure will not cause any negative impacts to one another, the site, the surrounding properties, and the community.

### **Section 201.03          Application Requirements**

The application shall include the following information:

- A. Applications for zoning certificates shall be submitted on Township Zoning Certificate Application Forms.
- B. The application shall include the following items at a minimum.
  - 1. Name, address and phone number of the applicant and owner.
  - 2. The application shall be signed by the owner.
  - 3. The proposed number of bedrooms, dwelling units, occupants, employees, and/or other uses.
  - 4. Copies of any approvals granted for uses and structures involved which required prior review and approval by the Board of Zoning Appeals.
  - 5. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Resolution, such as:

- a. Sewage disposal permit issued by either the County Health Department, County Water Resources Department or EPA for improvements that require or may increase the volume of sewage disposal.
  - b. Driveway /road culvert permit from the agency or department, such as ODOT, County Engineer, or Township, with the authority to allow access onto the roadway for any proposed driveway.
  - c. Wetlands Disturbance Permit from the agency or department, such as the Army Corps of Engineers or the State of Ohio with the authority to allow the disturbance of any wetland area.
  - d. Proof of compliance with the County's Flood Damage Prevention Regulations if site improvements are to be located within a Flood Hazard Area.
  - e. Water well permit from the County Health Department for wells, or a permit from the County Water Resources indicating a connection with the central water system.
- C. Nine (9) copies of the site plan drawing, drawn to a scale of no less than one hundred (100) feet to the inch and shall be on one or more sheets of 24 x 36 inches or less in size showing the following items:
1. Professional engineer or architect seal on the plans.
  2. General vicinity map
  3. Gross acreage of tract
  4. Property boundary lines and adjacent streets
  5. Zoning classification of the site and intended use.
  6. Contour map showing two (2) foot contour intervals, both existing and proposed shall be required for the following types of developments:
    - a. New construction or relocation of buildings for all development types, except for single-family and two-family dwellings and accompanying accessory buildings and structures.
    - b. Development proposals involving the creation of more than one lot or more than one principal building on one lot (e.g. platted subdivision, condominium developments, multi-family complexes, commercial centers and industrial parks).
  7. Location of existing structures on the site, those proposed to remain and those proposed to be constructed, including dimensions, height, and bulk of the structures.
  8. Traffic (vehicle and pedestrian) and circulation plan of the site and adjacent streets.

9. Delineate traffic flow with directional arrows and indicate the location of directional signs. Clearly show ingress and egress to the site.
10. The location of yards, open space, and parking spaces with the number of parking and loading spaces and dimensions as required by Chapter 6. All handicapped spaces shall be clearly identified.
11. Landscaping plan, in accordance with the requirements of Chapter 8.
12. Location for any signage (proposed and existing to remain) including type of sign, dimensions of sign, size of letters and graphics, description of sign frame materials and colors including supports, in accordance with the requirements of Chapter 7.
13. Location for any lighting (proposed and existing to remain).
14. Locations of any historic buildings and structures. Utilities plan and location of existing utilities and easements.
15. Existing wetlands, ponds, streams, springs, lakes, and the location and direction of all watercourses, existing drainage channels and structures.
16. Location of all areas subject to flooding or storm water overflow.

**Section 201.04          Review Procedures for Permitted Uses**

- A. The Zoning Inspector may consult with the Zoning Commission, and may consult with any other department, agency, public body, official, company, and/or individual to determine whether the application complies with the requirements of this Resolution.
- B. Within thirty (30) days after the receipt of a completed application, the Zoning Inspector shall issue a Zoning Certificate if such application is in compliance with this Zoning Resolution. If the application does not comply with the requirements of this Resolution, the Zoning Inspector shall give notice of denial, stating the reasons in writing for such denial and cite the sections of this Resolution that the application would violate.
- C. The Zoning Inspector shall return a copy of the submitted plans to the applicant after the Zoning Inspector has marked a copy as “approved” or “disapproved” and the Zoning Inspector shall sign and date a copy. The Zoning Inspector shall retain a copy of the plans similarly marked for the official Township record.
- D. Upon approval, the Zoning Inspector shall issue a copy of the zoning certificate to be posted in a conspicuous place on the subject property, attesting to the fact the activity is in conformance with the provisions of this Resolution.

## **Section 202.00            Conditional Zoning Certificates**

### **Section 202.01            Purpose**

In recent years, the characteristics and impacts of an ever increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Towards these ends, it is recognized that this Resolution should provide for a more detailed evaluation of each conditionally permitted use in a specific district with respect to such considerations as location, design, size, methods of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, the issuance of a Conditional Zoning Certificate shall conform to the procedures and requirements of Section 202.02 and subsequent sections of this Resolution.

### **Section 202.02            Procedures for Filing an Application**

Any application for a Conditional Zoning Certificate for any use of land or structure, construction, or alteration conditionally permitted under this Resolution shall be submitted in accordance with the following procedures:

### **Section 202.03            Application Requirements**

- A. Applications for Conditional Zoning Certificates shall be submitted to the Zoning Inspector on Township Zoning Certificates Application Forms and shall include the proper application fee.

When the Zoning Inspector has determined that all required items have been submitted with the application, the application, including all required items, shall be transmitted to the chairman of the Board of Zoning Appeals.

- B. The application shall include the following items at a minimum.

1. A statement supported by substantiating evidence regarding the requirements listed in Chapter 4 Section 400.10.A and B.
2. Name and address of the owner(s) of record.
3. A list of property owners adjoining and within five-hundred (500) feet of the property lines of the subject property, as they appear on the county auditor's current tax list or treasurers mailing list.
4. Name and address of person and/or firm that prepared the plan(s) for the application.
5. Proposed density of units (for residential development).
6. A schedule for development of the site and buildings. Where the development is proposed in



phases, all phases must be completed within five (5) years of issuance of the conditional zoning certificate. In addition, the proposed improvements of each phase must be completed before work may begin on another phase. Any development not completed within five (5) years shall be subject to resubmission to the conditional permit review process.

7. Any proposed deed restrictions, protective covenants, and other legal instruments or devices to be used to control the use, development and maintenance of the land, and the improvements thereon.
8. One (1) copy of current tax map(s) for the subject development property and surrounding area.
9. Project cost estimate.
10. Zoning District of the subject property.
11. Description of existing and proposed use(s).
12. Any other information required by the Board of Zoning Appeals to determine full compliance with the zoning regulations in this Resolution.

**C. Plans Required With the Application:**

1. Nine (9) copies of architectural plans for the development, showing exterior elevations and building floor plans and proposed exterior materials.
2. Nine (9) copies of the site plan which shall be drawn at a scale of not less than 1" = 100 feet for the development showing the following items:
  - a. General vicinity map at a scale of 1" = 1,000 feet or 1" = 2000 feet and shall show proposed development in relation to existing streets, subdivisions, landmarks and community facilities.
  - b. Property boundary lines.
  - c. Elevation contours at two (2) foot intervals.
  - d. Traffic and circulation plans.
  - e. Adjacent streets and roads, and the widths of the right-of-ways.
  - f. Parking and loading plan including dimensions, locations and numbers of all parking and loading spaces.
  - g. Landscaping plan, including parking lot landscaping.
  - h. Grading and erosion /sediment control, surface drainage/storm water management.

- i. Proposed signage locations, height, dimensions and materials, including signs proposed to be painted on structures.
  - j. All existing structures and uses.
  - k. Utilities plan and location of existing utilities and easements.
  - l. Existing wetlands, ponds, streams, springs, lakes, and the location and direction of all watercourses, existing drainage channels and structures.
  - m. Location of all areas subject to flooding or storm water overflow.
  - n. Wooded areas, areas in agriculture, and any other special natural features other than in item 1.
  - o. Location of any fences, screens, walls or other landscaping features and the design and materials to be used.
  - p. Open spaces proposed, clearly delineated.
  - q. Location, type, and screening details for all waste disposal containers shall be shown.
  - r. Location of all existing and proposed public and private sidewalks, driveways, and paths.
6. A plan showing how storm water and erosion will be managed and controlled on site. The applicant shall utilize “Best Management Practices” in the design and management of storm water and erosion/sediment control systems.
7. All plans required in Item C of this Section shall be prepared by a professional engineer, architect, or surveyor, as applicable and shall have their respective seal on the plans.

#### **D. Special Studies**

The Board of Zoning Appeals, may require the applicant to consult with an independent professional, of the applicant’s choice, who is qualified to conduct studies and prepare written reports, if the Board of Zoning Appeals deems the proposed use, may cause the emission of dangerous or objectionable elements or require special study. The cost of such report shall be at the expense of the applicant and said report shall be furnished to the Board of Zoning Appeals as soon as it is ready.

#### **Section 202.04      Review Procedures for Conditional Zoning Certificate**

The Board of Zoning Appeals shall review the proposed development as presented on the submitted plans and specifications, in terms of standards established in this Resolution. In addition, the Board of Zoning Appeals shall submit each proposed development to any agency, department, office, public body, commission, consultant or any other entity or person that the Board of Zoning Appeals would

benefit from their expertise in conducting their plan review of the proposed development, such as, but not limited to, the County Engineer, Regional Planning Commission, Soil and Water Conservation District, Health Department, County Water Resources, and/or the Zoning Commission, etc. The comments and recommendations shall be returned in writing to the Board of Zoning Appeals within forty-five (45) days after the receipt by the Board of Zoning Appeals of the completed site plan. Review by the Board of Zoning Appeals shall be completed within sixty (60) days after the date of receipt of the completed site plan. Actions on applications shall be made at the public hearing as required in Section 202.04 subsection B.

**A. General Plan Review Standards**

In addition to any specific standards for the conditional use noted in Section Chapter 4, Section 400.10, the following general standards shall be incorporated into the design of any conditionally permitted use and its site.

1. Development features shall be located and related so as to minimize the possibility of adverse impacts upon surrounding property and development.
2. The Plan shall show that a proper relationship will exist between thoroughfares, driveways, and parking areas to ensure pedestrian and vehicular safety.
3. The architectural design of buildings should be developed with consideration given to the relationship of adjacent development in terms of building height, mass, materials, and overall character.
4. Building location and placement should be developed with consideration given to minimize removal of trees, existing vegetation, and change of topography. The development shall be integrated into the existing landscape through use of design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
5. On site circulation shall be designed to make possible adequate police and fire protection.
6. The plan shall provide for adequate screening of parking and service areas from surrounding properties by landscaping.
7. The applicant shall utilize Best Management Practices in the design and management of storm water and erosion/sediment control systems. The general standards and policies for the design of sites to manage storm water, erosion and sediment as specified in Chapter 5 shall be followed.

**B. Hearing**

After adequate review and study of any application, The Zoning Board of Appeals shall hold a public hearing or hearings upon every application after at least one (1) publication in a newspaper of general circulation in the Township, at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing.

**Section 202.05          Issuance of Conditional Zoning Certificates**

Only upon conclusion of hearing procedures relative to a particular application may the Zoning Board of Appeals issue a Conditional Zoning Certificate. Action shall be taken on an application within sixty (60) days of the date of submittal of a complete application unless an extension of time is agreed to in writing by the applicant and the Board of Zoning Appeals.

**Section 202.06          Reapplication**

No application for a Conditional Zoning Certificate which had been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Zoning Board of Appeals.

## **Section 203.00        Procedures and Requirements for Appeals**

### **Section 203.01        Purpose**

The purpose of this Section is to provide the procedures for any aggrieved party or any official of the Township to appeal the decision of the Zoning Inspector or an administrative official. The notice of appeal shall specify the grounds on which the appeal is being taken, including any applicable sections of the Zoning Resolution.

### **Section 203.02        Procedures for Filing an Appeal Application**

An application for an Appeal shall be filed within twenty (20) days of a decision by the Zoning Inspector or administrative official. The application shall be submitted to the Zoning Inspector. Upon receipt of the application, the Zoning Inspector shall transmit it to the Board of Zoning Appeals along with all documents constituting the full record upon which the action appealed from is taken.

### **Section 203.03        Appeal Application Requirements**

The appeal application shall contain, at a minimum, the following information:

- A. Name, address and phone number of applicant(s).
- B. Description or nature of the appeal, including Section number(s) of the Resolution appeal is being requested for.
- C. Narrative statements, maps and/or drawings establishing and substantiating the rationale for the appeal.
- D. Legal description of the property accompanied by a copy of the most current Portage County Tax Map showing the subject property, if applicable.
- E. A fee as established by Resolution of the Township Trustees.

### **Section 203.04        Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall schedule a public hearing to be held within forty-five (45) days after receipt of a completed application as per Sections 203.02 and 203.03.

### **Section 203.05        Notice of Public Hearing in Newspaper**

Before conducting the hearing required in Section 203.04 written notice of such hearing shall be given in one or more newspapers of general circulation in the County at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal.

The Board, at its discretion, may send out further notices to publicize such hearing.

**Section 203.06            Notice to Parties in Interest**

Before conducting the public hearing required in Section 203.04, written notice of such hearing shall be mailed by the Secretary of the Board of Zoning Appeals by first class mail to the parties of interest, at least ten (10) days before the date of the hearing. The notices shall contain the same information as required of notices published in newspapers as specified in Section 203.05. The parties in interest shall include at a minimum, the applicant, the party who's decision is being appealed, and any others who have indicated they wish to be notified of such applications.

**Section 203.07            Action by Board of Zoning Appeals**

The Board of Zoning Appeals shall take action within a reasonable time, but generally not more than thirty (30) days from the date of the initial public hearing. The Board of Zoning Appeals may continue any hearing. If the time and place of a continued hearing is publicly announced at the public hearing then no further notice of the hearing shall be required.

The decision of the Board of Zoning Appeals shall be announced at the public hearing. A certified copy of the Board of Zoning Appeals' decision, shall be transmitted to the appellant and to the Zoning Inspector. Such decision shall be binding on the Zoning Inspector.

**Section 203.08            Appealing Decisions of the Board of Zoning Appeals**

Any final decision of the Board of Zoning Appeals may be appealed to the Common Pleas Court of Portage County pursuant to Ohio Revised Code, Chapter 2506. Such appeal shall not stay any enforcement action or proceeding on such decision appealed from, unless and until otherwise ordered by the Common Pleas Court.

## **Section 204.00            Procedures and Requirements for Variances**

### **Section 204.01            Purpose**

The purpose of this Section is to provide the Board of Zoning Appeals with the procedures to authorize in specific cases, variances from the terms of this Resolution. The variances are not be contrary to the public interest, but, owing to special conditions, may be granted when a literal enforcement of this Resolution would result in unnecessary hardship or practical difficulties for the applicant.

### **Section 204.02            Procedures for Filing a Variance Application**

Anyone seeking a minor departure or exception from the strict rule or literal enforcement of these zoning requirements may file an application for a variance request on forms provided by the Township. The application forms and all required supplemental information listed in Section 204.03 shall be filed with the Zoning Inspector. Upon receipt of a complete application, the Zoning Inspector shall transmit it to the Board of Zoning Appeals.

### **Section 204.03            Variance Application Requirements**

The variance application shall contain at least the following information:

- A. Name, address and phone number of applicant(s).
- B. Legal description of the property accompanied by a copy of the most current Portage County Tax Map showing the subject property.
- C. Description or nature of the variance requested.
- D. A fee as established by Resolution of the Township Trustees.
- E. A list of property owners as shown on the most recent tax duplicate whose property is contiguous to or directly across the street from the subject property and the mailing addresses of those property owners.
- F. Narrative statements establishing and substantiating the variance conforms to the standards established in Section 204.05. Before it may grant any variance, the Board of Zoning Appeals shall find by a preponderance of reliable, probative evidence submitted at the hearing(s), and only from such evidence, that the applicable standards set forth in this section are or will be satisfied by the proposed development or use.
- G. Nine (9) copies of any drawings that illustrate the description or nature of the requested variance, drawn at an approximate scale of not less than 1" = 100 feet.

### **Section 204.04            Review Standards to Govern Decisions of Board of Zoning Appeals**

- A. Use Variance

On application for a use variance, the Board of Zoning Appeals shall review the evidence submitted at the hearing in light of the following standards and shall find that:

1. The variance is necessary due to special conditions.
2. A literal enforcement of this Resolution will result in an actual unnecessary hardship to the applicant in the reasonable use of their property.
3. If the use variance is granted, the spirit and intent of this Resolution will be observed and substantial justice done;
4. A granting of the variance will not have an adverse impact on the immediate neighborhood, community land use, or be contrary to the Township's Land Use Plan.
5. That the hardship is not self created.
6. That the property owner did not purchase the property with the knowledge of the zoning restrictions on the use of the property.
7. No use variance shall be granted where the proposed development or use would be contrary to a use prohibited under Chapter 5, Section 505.00 Dangerous/Objectionable/ Prohibited Uses.

**B. Area Variance**

On application for an area variance, the Board of Zoning Appeals shall review the evidence submitted at the hearing in light of the following standards:

1. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.
2. Whether the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a substantial detriment as a result of the variance.
4. Whether the variance would adversely affect the delivery of governmental services.
5. Whether the property owner purchased the property with the knowledge of the zoning restriction.
6. Whether the problem can be solved by some manner other than the granting of the variance.
7. Whether the variance preserves the spirit and intent of the Zoning Resolution and whether substantial justice would be done by the granting of the variance.



**Section 204.05          Additional Fees**

Any variance request may be subject to additional fees. In the event the Board of Zoning Appeals determines it necessary to call on experts for reports or testimony in the fields of planning, law, engineering, architecture, or similar fields. In such cases, the applicant may be required to provide compensation for the reviews and testimony conducted by the various experts.

**Section 204.06          Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall schedule a public hearing to be held within forty-five (45) days after receipt of a completed application as per Sections 204.02 and 204.03 for a variance.

**Section 204.07          Notice of Public Hearing in Newspaper**

Before conducting the hearing required in Section 204.06 written notice of such hearing shall be given in one or more newspapers of general circulation in the County at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed variance.

The Board of Zoning Appeals, at its discretion, may send out further notices to publicize such hearing.

**Section 204.08          Notice to Parties in Interest**

Before conducting the public hearing required in Section 204.06, written notice of such hearing shall be mailed by the Secretary of the Board of Zoning Appeals by first class mail, at least ten (10) days before the date of the hearing to all parties in interest. The notices shall contain the same information as required of notices published in newspapers as specified in Section 204.07. The parties in interest shall include at a minimum, the applicant and any others who have indicated they wish to be notified of such applications.

**Section 204.09          Action by Board of Zoning Appeals**

The Board of Zoning Appeals shall take action within a reasonable time, but generally not more than thirty (30) days from the date of the initial public hearing. The Board may recess any hearing from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.

The decision of the Board of Zoning Appeals shall be announced at the public hearing. A certified copy of the Board's decision shall be transmitted to the applicant and to the Zoning Inspector. If approved, such decision shall be binding on the Zoning Inspector who shall incorporate the terms and conditions of the decision in the Conditional Zoning Certificate issued to the applicant.

**Section 204.10          Additional Conditions and Safeguards**

The Board may impose such additional, written conditions on the proposed development or use, as it deems necessary to insure that the intent or objectives of this Resolution are and will be observed. Any

violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a violation of this Resolution.

**Section 204.11          Appealing Decisions of the Board of Zoning Appeals**

Any final decision of the Board of Zoning Appeals may be appealed to the Common Pleas Court of Portage County pursuant to Ohio Revised Code, Chapter 2506. Such appeal shall not stay any enforcement action or proceeding on such decision, unless and until otherwise ordered by the Common Pleas Court.

**Section 205.00            Amendments**

**Section 205.01            Purpose**

The purpose of this Section is to provide the Township Trustees and the Zoning Commission with the procedures to amend, supplement, or repeal these regulations and/or the boundaries of any zoning district or the classification of any property.

**Section 205.02            Initiation of Zoning Amendment**

Amendments to this Resolution may be initiated in one of the following ways:

- A. By adoption of a motion by the Zoning Commission;
- B. By adoption of a resolution by the Township Trustees;
- C. By the filing of an application by at least one (1) property owner or lessee of property within the area proposed to be changed or affected by said amendment.

**Section 205.03            Contents of Application for Zoning Map Amendment**

Applications for amendments to the Official Zoning Map adopted as part of this Resolution shall contain at least the following information:

- A. The name, address and phone number of the applicant;
- B. The nature of the proposed amendment.
- C. A statement of the reason for the proposed amendment.
- D. The present land use(s).
- E. The present Zoning District Classification.
- F. The proposed use(s)
- G. The proposed Zoning District Classification.
- H. A map at a legible scale showing property lines, thoroughfares, existing and proposed zoning district boundary lines, and such other items as the Zoning Inspector may require.
- I. A list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case. In cases involving the change of zoning for ten (10) or more parcels, a list of property owners and their mailing addresses is not warranted.

- J. A statement indicating how the proposed amendment is not contrary to the Township's Comprehensive/Land Use Plan.
- K. A fee as established by Resolution of the Township Trustees.

**Section 205.04            Zoning District Amendment Initiated by the Zoning Commission**

Zoning District Amendments initiated by the Zoning Commission shall include all items except A and K of Section 205.03.

**Section 205.05            Zoning Text Amendments**

Amendments proposing to amend or repeal any portion(s) of this Resolution, other than the Official Zoning Map, shall include at least the following information:

- A. The proposed amending resolution;
- B. A statement of the reason(s) for the proposed amendment;
- C. A statement explaining the ways in which the proposed amendment relates to the Township Comprehensive/Land Use Plan;
- D. How the proposed text would result in an improved Zoning Resolution.

**Section 205.06            Transmittal to the Zoning Commission**

Immediately after the adoption of a resolution by the Board of Township Trustees or the filing of an application by at least one (1) owner or lessee of property within the area proposed to be affected by the proposed amendment, said resolution shall be transmitted to the Zoning Commission together with all documents relative to the amendment proposed.

**Section 205.07            Submission to Regional Planning Commission**

Within five (5) days after the adoption of a motion by the Zoning Commission, transmittal of a resolution by the Township Trustees, or the filing of an application by at least one (1) owner or lessee of property within the area proposed to be affected by the proposed amendment, the Zoning Commission shall transmit a copy of such motion, resolution, and all related application materials together with the text and map pertaining to the zoning change to the Portage County Regional Planning Commission. The Regional Planning Commission shall recommend the approval, denial or some modification thereof and shall submit such recommendation to the Zoning Commission. Such recommendation shall be considered at a public hearing held by the Zoning Commission.

**Section 205.08            Public Hearing by the Zoning Commission**

The Zoning Commission shall schedule a public hearing after the adoption of their motion, the transmittal of a resolution from the Board of Trustees, or the filing of an application for a zoning

amendment. Said hearing shall be not less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or filing of such application.

**Section 205.09            Notice of Public Hearing in Newspaper**

Before holding the public hearing as required in Section 205.08, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one or more newspapers of general circulation in the Township at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, the time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing, and a statement that after the conclusion of such public hearing the matter will be referred to the Board of Trustees for further determination.

**Section 205.10            Notice to Property Owners by the Zoning Commission**

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Zoning Commission by first class mail, at least ten (10) days before the date of the public hearing, to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted. A mailing list shall be created of such property owners as appears on the County Auditor's current tax list and a notice of the hearing shall be mailed to each. The notice shall contain the same information as required of notices published in the newspapers as specified in Section 205.09. The notices shall be delivered by 1<sup>st</sup> class mail to each property owner(s). The failure to deliver the notices, as provided in this section, shall not invalidate any such amendment.

**Section 205.11            Recommendation by the Zoning Commission**

Within thirty (30) days after the public hearing required by Section 205.08, the Zoning Commission shall recommend to the Board of Trustees one of the following:

- A. The amendment be granted as requested;
- B. The amendment be granted with modifications;
- C. The amendment be denied.

The written decision of the Zoning Commission shall indicate the specific reasons upon which the recommendation is based, to include the basis for their determination and that the proposed amendment is or is not consistent with the Township Land Use Plan. The Zoning Commission's recommendation to the Board of Trustees shall also include the recommendation provided by the Regional Planning Commission.

**Section 205.12            Public Hearing by the Board of Township Trustees**

Within thirty (30) days from the receipt of the recommendation from the Zoning Commission, the Board of Trustees shall hold a public hearing. Notice of such hearing shall be given by the Board of Trustees

by at least one (1) publication in one or more newspapers of general circulation in the Township at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, the time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing, and any other information requested by the Board of Trustees.

**Section 205.13          Action by the Board of Trustees**

Within twenty (20) days after the public hearing as required by Section 205.12, the Board of Township Trustees shall either:

- A. Adopt the recommendations of the Zoning Commission;
- B. Adopt the recommendations of the Zoning Commission with modifications;
- C. Deny the recommendations of the Zoning Commission.

In the event the Board of Trustees denies or modifies the recommendations of the Commission, the majority vote of the Board of Trustees is required.

**Section 205.14          Effective Date and Referendum**

Such amendment adopted by the Board of Township Trustees shall become effective within thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment, there is presented to the Board of Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the Township or part thereof included in the Zoning Plan equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Trustees to submit the amendment to the electors of such area, for approval or rejection at a special election to be held on the day of the next primary or general election.

No amendment for which such referendum vote has been requested, shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment.

Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

**Section 205.15          Filing of Amendments With County Recorder and Regional Planning Commission**

Within five (5) working days after an amendment's effective date, the Board of Township Trustees shall file the text and maps of the amendment in the Office of the County Recorder and with the Regional Planning Commission. The failure to file any amendment, as required by this section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.

**Section 206.00          Enforcement**

**Section 206.01          Complaints Regarding Violations**

The Zoning Inspector is responsible to investigate all violations or complaints of alleged violations of this Resolution. Any person may file a written complaint regarding a violation with the Zoning Inspector. The complaint shall state fully the cause and basis of the violation. The Zoning Inspector shall record the complaint and conduct an investigation within five (5) days of receiving the complaint. If a violation exists, the Zoning Inspector shall take action to resolve the violation as provided for in this Resolution.

**Section 206.02          Entry and Inspections of Property**

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purposes of enforcing this Resolution. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner/occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the County Prosecutor to secure a valid search warrant or other means prior to entry.

**Section 206.03          Notice of Violation**

Whenever the Zoning Inspector determines that there is a violation of any provision of this Resolution, a warning shall be issued and shall serve as notice of a violation. Such notice shall:

- A. Be in writing.
- B. Identify the violation.
- C. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Resolution that are being violated.
- D. State that the violation shall be corrected in a timely manner specified by the Zoning Inspector, depending upon the urgency of the violation up to a maximum of thirty (30) days.

**Section 206.04          Service of Notice of a Violation**

Service of notice of the violation shall be as follows:

- A. By personal delivery to the person or persons responsible or by leaving the notice at the usual place of residence of the owner with a person of suitable age; or

- B. By certified mail deposited in the U.S. Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing, which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided the ordinary mail envelope is not returned by the postal authorities with an endorsement failing to show delivery; or
- C. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

**Section 206.05            Penalties/Fines**

- A. No building or structure shall be located, erected, constructed, reconstructed, enlarged, changed, demolished, maintained or used and no land shall be used in violation of this Resolution. Each day of continuation of any violation of this Resolution shall be deemed a separate offense.
- B. Whoever violates any provision of this Resolution or the Ohio Revised Code, Section 519.01-519.25, inclusive, shall be fined not more than \$500.00 for each offense.
- C. If there are any violations of this Resolution, the Board of Township Trustees, with the assistance of the Zoning Inspector, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate and/or removal of such unlawful violations, such as but not limited to: location, erection, construction, reconstruction, enlargement, alteration and/or use.